

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

In re

Carzell Benton,

Debtor.

24 Civ. 7945 (KPF)

Case No. 24-B-11383 (PB)

**ORDER**

KATHERINE POLK FAILLA, District Judge:

On October 18, 2024, the above-captioned bankruptcy appeal was assigned to this Court for all purposes. (Dkt. #1).

On October 23, 2024, this Court entered a Bankruptcy Appeal Scheduling Order (the “Order”). (Dkt. #2). This Order required that:

(i) pursuant to Rule 8009 of the Federal Rules of Bankruptcy Procedure, within 14 days after filing the notice of appeal, the appellant file “a designation of the items to be included in the record on appeal and a statement of the issues to be presented”; (ii) pursuant to Rule 8009, within 14 days after the service of the appellant’s statement, the appellee file and serve on the appellant a designation of additional items to be included in the record on appeal; (iii) pursuant to Rules 8014 through 8018, the appellant serve and file a brief within 30 days after the docketing of notice that the record has been transmitted or is available electronically; (iv) the appellee serve and file a brief within 30 days after service of the appellant’s brief; and (v) the appellant serve and file a reply brief within 14 days after service of the appellee’s brief, provided that the reply brief is filed at least 7 days before scheduled argument absent leave from the Court. (*Id.*). Additionally, the Court emphasized that

“THE FAILURE TO COMPLY WITH THIS ORDER AND/OR THE TIME LIMITS IN RULES 8002, 8009, OR 8018 WILL RESULT IN DISMISSAL OF THE APPEAL (IN THE CASE OF APPELLANT) OR CONSIDERATION OF THE APPEAL WITHOUT AN APPELLEE’S BRIEF (IN THE CASE OF THE APPELLEE).”

While the notice of the record of appeal availability was filed on November 5, 2024 (Dkt. #4), Appellant has failed to file an appeal brief. Accordingly, on April 2, 2025, this Court *sua sponte* issued an Order advising Appellant that it would provide him “one final opportunity to submit” an appeal brief, and adjourned the deadline for submission of such a brief to on or before May 1, 2025. (Dkt. #5). The Court emphasized that “[n]o further extensions of this deadline will be granted for any reasons.” (*Id.*). Despite the Court’s warning, Appellant has yet to file an appeal brief.

Accordingly, having failed to comply with the Bankruptcy Appeal Scheduling Order and this Court’s April 2, 2025 Scheduling Order, this appeal is hereby DISMISSED. The Clerk of Court is directed to terminate all pending motions, adjourn all remaining dates, and close this case. The Clerk of Court is further directed to mail a copy of this Order to Appellant at the following address: 1600 Broadway, PH3D, New York, New York, 10019.

SO ORDERED.

Dated: May 2, 2025  
New York, New York



---

KATHERINE POLK FAILLA  
United States District Judge